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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,828	01/29/2004	Edward H. Phillips	PPC-10202/08	5600
25006	7590	11/29/2006	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			TRIEU, THERESA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/767,828

Applicant(s)

PHILLIPS, EDWARD H.

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

This Office Action is responsive to the applicant's amendment filed on Sept. 15, 2006.

Claims 1-5 and 10 have been canceled. Claims 11-16 have been added. Claims 6-9 have been withdrawn. Accordingly, claims 11-16 are pending in this application.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 12 and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 14-16 recite the limitation "the gerotor set's in mesh position"; claim 16 recites the limitation "the space". There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 11-12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckerle (Patent Number 6,074,189).

Regarding claims 11 and 12, Eckerle discloses an improved gerotor pump of the type having a gerotor set comprising: an inner rotor (2) having  $N$  outwardly extending lobes with  $N$  approximately circularly shaped grooves therebetween being in mesh with and, in response to rotational motion of a drive shaft (14), rotationally driving an eccentrically disposed outer rotor (3) about an eccentricity offset rotation axis located along a preferred eccentricity axis, the outer rotor being formed with  $N + 1$  inwardly extending circularly shaped elements with  $N + 1$  approximately circularly shaped grooves therebetween, whereby  $N + 1$  pumping chambers (S, D) are formed between the outwardly extending lobes of the inner rotor, the inwardly extending circularly shaped elements of the outer rotor (3) and the grooves of either, a floating ring (4) having a bore (15) wherein the outer rotor is hydro-dynamically supported for rotation, and a housing having an internal gerotor pump cavity and first and second housing ports (see Fig. 1) located on opposite sides of the preferred eccentricity axis, wherein radial face slots are provided in at least one face of the outer rotor for fluidly coupling fluid with the  $N + 1$  approximately circularly shaped grooves of the outer rotor respectively with first and second fluid commutation ports formed on opposite sides of the floating ring (4) in a corresponding face or faces of the floating ring, further wherein the floating ring and the internal pump cavity have slidingly engaging floating ring and housing guide features for locating the floating ring (4) such that the center of the floating ring bore is laterally located along the preferred eccentricity axis and the floating ring is oriented in the roll direction such that the first

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mid second fluid commutation ports are symmetrically located on either side of the preferred eccentricity axis, and still further wherein the first and second housing ports are located and formed within the housing in such a manner that first and second housing ports respectively fluidly communicate with the first and second fluid commutation ports; means (16, 20) being provided for forcibly positioning the outer rotor (3) along the eccentricity axis against the inner rotor (2) at the gerotor set's in-mesh position.

The method claim 15 is inherent in the operation of the Eckerle device.

***Allowable Subject Matter***

3. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 14 and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Arguments***

Applicant's arguments with respect to claims 11-16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT  
November 17, 2006



Theresa Trieu  
Primary Examiner  
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